

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment to the Commission's Rules)	MB Docket No. 15-71
Concerning Market Modification)	
)	
Implementation of Section 102 of the STELA)	
Reauthorization Act of 2014)	

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To: The Commission

COMMENTS OF VIRGINIA BROADCASTING CORPORATION

1. Virginia Broadcasting Corporation ("WVIR-TV"), licensee of Station WVIR-TV, Charlottesville, VA, Facility ID 70309, hereby submits these Comments in response to the Commission's *Notice of Proposed Rulemaking* ("NPRM") in the above-captioned proceeding, FCC 15-34, released March 26, 2015.¹ WVIR-TV welcomes the proposals to adopt market modification rules applicable to direct broadcast satellite ("DBS") systems. It also urges the Commission to enable and to encourage satellite delivery of broadcast stations of local interest to viewers. These Comments will show that there are situations other than delivery of physically distant in-DMA signals where the local needs of DBS subscribers are not being met. In particular, DBS operators in some cases deliver distant out-of-state, out-of-DMA signals, while they refuse to deliver signals from in-state adjacent DMAs that are physically much closer and of more local interest to the subscriber.

2. WVIR-TV is the NBC network affiliate for the Charlottesville DMA. Charlottesville is DMA #183 and is geographically small. The Charlottesville DMA is adjacent

¹ 80 FR 19594 (4/13/2015).

to the Harrisonburg, VA, DMA, which is #178 and is also geographically small. The reference points of the cities of Charlottesville and Harrisonburg are only 36 miles apart by a direct point-to-point line. WVIR-TV's 48 dBu contour covers both Charlottesville and Harrisonburg.

3. There is no NBC affiliate in the Harrisonburg DMA. WVIR-TV provides NBC service to both Charlottesville and Harrisonburg. Not only does the station's 48 dBu contour cover Harrisonburg but WVIR-TV also operates two TV translators to ensure robust over-the-air reception in Harrisonburg. It also maintains local news-gathering offices in both the Charlottesville and Harrisonburg DMAs and covers events in both DMAs.

4. While it is clear that the most relevant local service by any NBC affiliate is WVIR-TV for both Charlottesville and Harrisonburg, DirecTV and DISH network until recently delivered only WRC-TV, Washington DC, as the NBC affiliate in their broadcast package. WRC-TV's over-the-air signal does not reach either Charlottesville or Harrisonburg, Washington is 99 miles point-to-point from Charlottesville and 104 miles from Harrisonburg, and WRC-TV is not significantly viewed in either market.² While DISH and DirecTV both currently carry WVIR-TV, with DirecTV adding such carriage only recently, both still refuse to deliver WVIR-TV to their Harrisonburg subscribers and continue to offer them NBC service from WRC-TV.³

5. The circumstances in Charlottesville and Harrisonburg demonstrate clearly that the problem of how to bring the most relevant service to local viewers is broader than delivery of an out-of-state signal to a community that has been assigned by Nielsen to an out-of-state DMA.

² WRC-TV's local news and informational programming, however meritorious, does not cover events in Charlottesville or Harrisonburg except perhaps in unusual circumstances where a story rises to major regional or national importance.

³ For whatever reason, DISH delivers WVIR-TV to Charlottesville subscribers in only standard definition format, and DirecTV delivers WVIR-TV in only high definition format, while they offer other broadcast stations in both formats.

There are situations, like Harrisonburg, where a nearby network affiliate that provides strong over-the-air service to a community is ignored by DBS operators, who skip to a station in a larger DMA, with a more distant central city, to which the local DBS subscribers have no ties of affinity. Furthermore, in this instance, both the community of license of the imported station and the central city of the DMA are located outside of the Commonwealth of Virginia, in which both the Charlottesville and Harrisonburg DMA's are located.

6. The market modification procedure suggested by the FCC in the *NPRM* is certainly one suitable way to remedy the kind of problem that exists in Harrisonburg. Use of that procedure was suggested by the legislation, and the Commission is accustomed to the procedure and has established case law in the cable area that can be carried over to DBS as a body of precedent. Were the cable rules transposed into the DBS environment, WVIR-TV would have an exceptionally strong case to add Harrisonburg to its market. It provides not just a 41 dBu signal but a 48 dBu signal to Harrisonburg and bolsters its signal with translators. It has a local news office establishing a physical presence and provides news and informational programming that directly addresses Harrisonburg needs and issues on a daily basis – content offered by no other NBC affiliate. It is significantly viewed in Harrisonburg. It has a history of cable carriage in Harrisonburg.

7. To the extent that the Commission allows an escape for DBS operators based on technical feasibility, it should apply that escape sparingly. Once WVIR-TV is carried by satellite to any subscriber, there is no reason why the same beam cannot serve both Charlottesville and Harrisonburg, as they are only 36 miles apart.


8. DBS operators compete directly with cable companies for customers. They offer national and local program sources, and both offer local broadcast signals in nearly all DMAs. It

makes good sense to treat them similarly for purposes of determining which signals provide the most meaningful local service to their subscribers. Accordingly, WVIR-TV urges the Commission to adopt its proposal to apply cable market-modification rules to DBS operators and not to confine any new rules to situations where a subscriber's community or county is assigned to an out-of-state DMA by Nielsen. Residents of Harrisonburg, VA, have at least as much need for service from stations that have a significant presence in their community and provide directly pertinent local programming as do residents of communities near a state border that are assigned by Nielsen to an out-of-state DMA.⁴

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Respectfully submitted,


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⁴ WVIR-TV recognizes that its arguments can just as easily be applied to enable Harrisonburg stations to request modification of their market to ensure delivery in Charlottesville. WVIR-TV has no problem with that result.